IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1959 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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BABULAL INDRAVADANDAS CONTRACTOR

Versus

HARILAL MANEKLAL MEHTA

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Appearance:

MR GIRISH D BHATT for Petitioners

MR RV DAGLI for MR PM THAKKAR for Respondent No. 1

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CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 09/01/2002

ORAL JUDGEMENT

1. The petitioners are the original plaintiffs. They are the trustees of Shri Nilkanth Mahadev Farashrami Darjee Caste Punch which is a registered Public Trust. They are the owners of the suit room. They filed the

suit for eviction under the provisions of the Bombay Rent Act on four grounds:-

(1) That the defendant no.1 had changed the user of the suit room;

(2) that the suit premises had not been used without reasonable cause for the purpose for which they had been let for a continuous period of six months immediately preceding the date of the suit;

(3) that the defendant no.1 had acquired alternative accommodation; and

(4) that the defendant no.1 has sublet the suit room to defendant no.2.

2. The learned Trial Judge, after recording the evidence led by the parties, decided all the issues against the plaintiffs and dismissed the suit. On appeal, the learned District Judge has confirmed the said finding.

3. The petitioners have, therefore, filed this revision application under Section 29(2) of the Bombay Rent Act challenging the judgment and decree of the courts below dismissing their suit.

4. The learned counsel for the petitioners has taken me through the judgments of both the courts and contended that the courts had erred in recording the findings on the issues against the petitioners. However, the findings recorded by the courts below are findings of fact based on appreciation of the evidence on record. It is well-settled that powers under Section 29(2) of the Bombay Rent Act are revisional powers with which the High Court is clothed. It empowers the High Court to correct errors which may make the decision contrary to law and which errors go to the root of the decision but that does not vest the High Court with the power to rehear the matter and reappreciate the evidence. The mere fact that a different view is possible on reappreciation of evidence cannot be a ground for exercise of revisional jurisdiction and the High Court cannot substitute its own findings on a question of fact for the findings recorded by the courts below on reappraisal of evidence. In the present case, the courts have recorded clear findings of fact which are supported by the evidence on record. It cannot be said that the findings are unreasonable or

perverse so as to justify interference. The courts have not committed any error which would make their decision contrary to law under Section 29(2). No case is made out for interference in the present revision under Section 29(2) of the Bombay Rent Act. The revision application, therefore, fails and is dismissed. Rule discharged.

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